

Greene of Billerica

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The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND FIVE

AN ACT TO ELIMINATE MERCURY EMISSIONS FROM AUTOMOBILES.

Be it enacted by the Senate and House of s in General Court assembled, and by the authority of the same, as follows:

The General Laws are hereby amended by inserting after chapter 21M the following chapter:—

CHAPTER 21N

SECTION 1. DEFINITIONS. As used in the chapter the following words shall have the following meanings, unless the context clearly requires otherwise:-

- (a) “Department” means the Massachusetts department of environmental protection.
- (b) “End of life motor vehicles” means any motor vehicle which is sold, given or otherwise conveyed to a vehicle recycler or scrap recycling facility for the purpose of dismantling, recycling and/or disposal.
- (c) “Mercury-added component” means a component that contains mercury and is part of and/or contained in a vehicle, including but not limited to, switches, sensors, lights, headlamps, navigational systems, screens, and brakes.
- (d) “Manufacturer” means any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture which is the last person to produce or assemble a new vehicle that utilizes mercury-added components, or in the case of an imported vehicle, the importer or domestic distributor of such vehicle.
- (e) “Mercury-added switch” a switch installed in a motor vehicle containing mercury including but not limited to light switches and antilock braking systems.

- (f) "Person" any natural or corporate person, whether public or private, including corporations, societies, associations and partnerships and bodies politic and corporate, public agencies, authorities, departments, offices and political subdivisions of the commonwealth.
- (g) "Scrap recycling facility" a facility, location, device, or unit, where machinery and equipment are utilized for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap for sale for remelting purposes.
- (h) "Vehicle in commerce" means any vehicle offered for sale by a dealer, or registered (by state or in the United States) to be operated on public roads and highways.
- (i) "Vehicle recycler" means any individual or entity engaged in the business of acquiring, dismantling or destroying six or more vehicles in a calendar year for the primary purpose of resale of their parts.

SECTION 2. SALE OF MOTOR VEHICLES WITH MERCURY ADDED COMPONENTS.

- (a) A person may not sell a motor vehicle manufactured on or after July 1, 2005, containing 1 or more mercury added light switches.
- (b) A person may sell a motor vehicle manufactured on or after January 1, 2006, with a mercury added component, other than a mercury added light switch, only if that person has created a plan pursuant to section 4 of this act.
- (c) Upon enactment of this act, a person shall not sell or distribute a mercury added light switch for installation in a motor vehicle.
- (d) When mercury added light switches in a vehicle in commerce require replacement they shall be replaced with non mercury alternatives.

SECTION 3. REMOVAL OF ALL MERCURY ADDED COMPONENTS IN END OF LIFE MOTOR VEHICLES.

- (a) Within one year of enactment of this act, no person shall crush or cause to be crushed or otherwise arrange for an end of life motor vehicle to be crushed without first having removed any and all

mercury added components. A scrap recycling facility may agree to accept an end of life motor vehicle that has not been flattened, crushed, or baled, containing mercury added components, in which case the scrap recycling facility is responsible for the proper removal, recycling, transporting, storage, and general containment of all mercury added components in accordance with chapter 21C and 310 CMR 30.000.

- (b) Any person or facility removing a mercury added component in either a vehicle in commerce or an end of life vehicle shall manage the mercury added component in accordance with chapter 21C and 310 CMR 30.000 and safely contain and ship or transport the mercury added component to a manufacturer facility established under Section 4(a)(1) of this act.

SECTION 4. MANUFACTURER RESPONSIBILITY

- (a) Within 1 year of enactment of this act the manufacturers of motor vehicles sold in the commonwealth of Massachusetts that contain mercury added components shall as a group, or individually, create, implement, comply and file with the department, a plan that describes a system for the proper removal, recycling, transportation, storage, and general containment of all mercury added components in accordance with chapter 21C and 310 CMR 30.000. This plan shall provide at a minimum for:

1. The establishment and maintenance of facilities geographically located to serve all areas of the state where all mercury added components may be removed or transported. These facilities shall:
 - A. Receive and accept all mercury added components removed by dismantlers, vehicle recyclers, scrap facilities, and any and all other persons removing mercury added components from automobiles.
 - B. Service vehicles in commerce containing mercury added components for the removal, collection, and recovery of mercury added components and replacement with a non mercury alternative, where requested by consumer. This shall be at no cost to the consumer;

C. These facilities shall be managed in accordance with chapter 21C and 310 CMR 30.000.

2. Information, training, and other technical assistance to all facilities removing mercury added components such that the safe removal, recycling, transportation, storage and general containment of mercury are achieved. The information provided must include information identifying the make, model, and year of vehicles containing mercury added components, a description of the component, and the location in the automobile of the component.
3. Reasonable payments shall be made to those persons and facilities removing mercury added components for labor, shipping, and containment costs associated with the removal of such components. Acceptable payment rates may be those established by the manufacturer for the removal and replacement of said components under the manufacturer/dealer warranty program. The payment schedule shall be submitted and approved by the joint committee on natural resources and agriculture 1 year after the effective date of this act and annually thereafter.
4. A plan to store and recycle the mercury added component collected and recovered from the facilities.

This plan shall not require those persons removing the mercury added components to segregate such components by manufacturer;

- (b) After a plan is filed with the department each manufacturer shall thereafter certify to the department on an annual basis, in writing, on a form prescribed by the department, that it is implementing the plan in accordance with the requirements of this chapter.
- (c) Before January 1, 2005, and annually thereafter manufacturers shall report to the department and joint committee on natural resources and agriculture:
 1. The number of each mercury added component removed and collected;

2. Where and how the components are stored, recycled or otherwise disposed of;
3. And an estimated amount of mercury collected from mercury added components.
4. Makes, models, and years of the automobiles containing mercury added components.

SECTION 5. DEPARTMENT RESPONSIBILITY

The department shall evaluate the compliance of all persons subject to this chapter by conducting audits, inspections or implementing other compliance measures deemed appropriate by the department. The department shall report to the Committee on Natural Resources once every two years thereafter on the results of the department's compliance evaluation activities. The department may adopt regulations pursuant to this chapter.

SECTION 6. PENALTIES

(a) Any manufacturer who violates any provision of this chapter, or any rule or regulation, order, permit, license, or approval prescribed, issued or adopted under the provisions of this chapter: (1) shall be punished by a fine of not more than \$25,000, or by imprisonment for not more than 2 years or both, for each such violation; or (2) shall be subject to a civil penalty not to exceed \$25,000 for each such violation.

(b) Upon a second violation of sections 2 and/or 3 any person violating said sections shall be punished: (1) by a fine of not more than \$5,000; or (2) be subject to a civil penalty not to exceed \$5,000. Each day a violation occurs or continues shall be deemed a separate offense.